

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

BENJAMIN GOMEZ,

Plaintiff,

v.

MICHAEL J. ASTRUE,

Commissioner of Social Security

Defendant.

No. 3:09-869-SU

OPINION AND ORDER

MOSMAN, J.,

On September 8, 2010, Magistrate Judge Sullivan issued her Findings and Recommendation (“F&R”) (#17) in the above-captioned case recommending that the Commissioner’s decision should be reversed and remanded for immediate calculation and award of benefits. The defendant did not file objections.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal

conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Sullivan's recommendation, and I ADOPT the F&R (#17) as my own opinion.

IT IS SO ORDERED.

DATED this 9th day of December, 2010.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court